

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 165

BY JUDICIARY, RULES, AND ADMINISTRATION COMMITTEE

AN ACT

RELATING TO PUBLIC WRITINGS; AMENDING SECTION 9-343, IDAHO CODE, TO PROVIDE THAT NOTHING IN THE PUBLIC RECORDS ACT SHALL RESTRICT A PUBLIC AGENCY OR LAW ENFORCEMENT AGENCY FROM SUPPLYING CERTAIN PERSONNEL RECORDS TO A PUBLIC AGENCY OR LAW ENFORCEMENT AGENCY UPON REQUEST AND IN RESPONSE TO CERTAIN INVESTIGATIONS OR INQUIRIES OR IN JUDICIAL OR ADMINISTRATIVE ADJUDICATORY PROCEEDINGS AND TO PROVIDE CERTAIN IMMUNITY FOR A PUBLIC AGENCY, LAW ENFORCEMENT AGENCY OR SUCH AGENCY'S EMPLOYEES.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 9-343, Idaho Code, be, and the same is hereby amended to read as follows:

9-343. PROCEEDINGS TO ENFORCE RIGHT TO EXAMINE OR TO RECEIVE A COPY OF RECORDS – RETENTION OF DISPUTED RECORDS. (1) The sole remedy for a person aggrieved by the denial of a request for disclosure is to institute proceedings in the district court of the county where the records or some part thereof are located, to compel the public agency or independent public body corporate and politic to make the information available for public inspection in accordance with the provisions of sections 9-337 through 9-348, Idaho Code. The petition contesting the public agency's or independent public body corporate and politic's decision shall be filed within one hundred eighty (180) calendar days from the date of mailing of the notice of denial or partial denial by the public agency or independent public body corporate and politic. The time for responsive pleadings and for hearings in such proceedings shall be set by the court at the earliest possible time, or in no event beyond twenty-eight (28) calendar days from the date of filing.

(2) The public agency or independent public body corporate and politic shall keep all documents or records in question until the end of the appeal period, until a decision has been rendered on the petition, or as otherwise statutorily provided, whichever is longer.

(3) Nothing contained in sections 9-337 through 9-348, Idaho Code, shall limit the availability of documents and records for discovery in the normal course of judicial or administrative adjudicatory proceedings, subject to the law and rules of evidence and of discovery governing such proceedings. Additionally, in any criminal appeal or post-conviction civil action, sections 9-335 through 9-348, Idaho Code, shall not make available the contents of prosecution case files where such material has previously been provided to the defendant nor shall sections 9-335 through 9-348, Idaho Code, be available to supplement, augment, substitute or supplant discovery procedures in any other federal, civil or administrative proceeding.

(4) Nothing contained in sections 9-337 through 9-348, Idaho Code, shall restrict a public agency or law enforcement agency from supplying personnel records of a current or

1 former public official to a public agency or law enforcement agency upon request and in
2 response to a public agency or law enforcement agency investigation or inquiry, or in the
3 normal course of judicial or administrative adjudicatory proceedings as provided in subsection
4 (3) of this section. No public agency or law enforcement agency or such agency's employees
5 acting within the course and scope of their duties, shall be liable for damages for supplying or
6 receiving personnel records of a current or former public official consistent with the provisions
7 of this subsection (4).